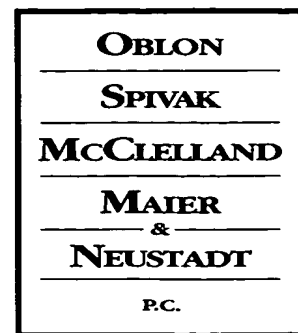




Docket No.: 216397US25CONT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RECEIVED

FEB 26 2004

RE: Application Serial No.: 09/988,880
Applicants: Jeffrey A. STUCKEY
Filing Date: November 19, 2001
For: RAPIDLY CHANGING DICHROIC BEAMSPLITTER
Group Art Unit: 2872
Examiner: SIKDER, MOHAMMAD Y.

SIR:

Attached hereto for filing are the following papers:

RESTRICTION RESPONSE

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Charles L. Gholz

Registration No. 26,395

Customer Number

22850

(703) 413-3000 (phone)

(703) 413-2220 (fax)

I:\INTERFERENCE\CASES\216397\UN\COVER LTR 23 FEB 04.DOC

W. Todd Baker

Registration No. 45,265



DOCKET NO: 216397US25CONT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
JEFFREY A. STUCKEY : EXAMINER: SIKDER, MOHAMMAD Y
SERIAL NO: 09/988,880 :
FILED: NOVEMBER 19, 2001 : GROUP ART UNIT: 2872
FOR: RAPIDLY CHANGING DICHROIC :
BEAMSPLITTER

RECEIVED
FEB 26 2004

RESTRICTION RESPONSE

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants elect with traverse claims 2-9 drawn to "specific features of the beamsplitter having a wheel with a planar reference surface passing there through and providing support at respective planar positions for a plurality of dichoric beamsplitters whose respective optical axes are perpendicular to said planar reference surface, classified in class 359, subclass 629."

Applicants respectively point out that the claims in the above-identified application are based on the claims of the 6,309,078 patent. Both the application and patent claims include apparatus and method claims. The application that matured into the '078 patent was examined by the examiner of record in the instant application, but was not subject to a restriction requirement. Hence, it would appear that there would be no undue burden placed on the examiner to examine all of the active claims of the instant application.

Further, Applicants will be filing a divisional application presenting the non-elected claims if the restriction requirement is not withdrawn. The divisional application will also

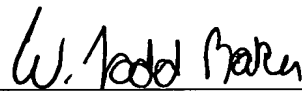
BEST AVAILABLE COPY

Application No. 09/988,880
Reply to Office Action of Jan. 22, 2004

include a request for interference with the '078 patent. Consequently, the Examiner will have to consider two separate requests for interference targeting one patent as opposed to considering a single request for interference. Applicants respectfully submit that that is an unnecessary waste of resources. In light of the above, Applicants respectfully request that the restriction requirement be withdrawn.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Charles L. Gholz
Attorney of Record
Registration No. 26,395
W. Todd Baker
Registration No. 45,265

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)

I:\INTERFERENCE\CASES\216397\UNI\RESTRICTION RESPONSE 20 FEB 04.DOC